THE HON'BLE Mr. JUSTICE C.V. RAMULU

W.P.No.10834 OF 1998

ORDER:-

This Writ Petition is filed seeking a Certiorari calling for records relating to the order dated 17.11.1997 made in M.P.No.294 of 1993 on the file of the Labour court-I, Hyderabad and quash the same as arbitrary and illegal and consequently direct the 2nd respondent to grant the petitioner all the terminal benefits.

It is the case of the petitioner that he joined the services of the 2nd respondent-Lodge as a room boy in the year 1974. Since then he continued to work till his services were illegally terminated on 4.2.1991. It is the further case of the petitioner that while terminating his services, the 2nd respondent had not complied with the provisions under Section 47 of the A.P. Shops and Establishments Act, 1988. The petitioner submits that during the year 1977 he was appointed as a Receptionist-cum-Assistant Manager. During the month of October, 1990 there took place communal riots and he requested the 2nd respondent to grant him leave to go to his native place. The 2nd respondent gave permission and he went to his native place. After normalcy was restored, he came to the city and reported to duty on 2.1.1991. The 2nd respondent did not permit him to join duty and went on dodging the matter and finally informed him on 4.2.1991 that his services were no more required. Thus, the services of the petitioner were terminated without any notice or paying anything in lieu of notice or arranging terminal benefits as provided under Section 47 of the Shops and Establishments Act, 1988. Therefore, the petitioner requested the 2nd respondent to arrange the terminal benefits including overtime allowance etc. The 2nd respondent refused to make any payment. Therefore, he made a representation on 15.4.1991 to the 2nd respondent by registered post with acknowledgment due and the same was received by the 2nd respondent on 19.4.1991. There was no response from the 2nd respondent nor did he make any arrangement to pay terminal benefits. Therefore, the petitioner was forced to approach the 1st respondent under Section 33-C (2) of the Industrial Disputes Act, 1947 seeking to compute monetary benefits. According to the petitioner he is entitled to get a sum of Rs.1,53,619.75 Ps. The Labour Court after elaborate discussion, dismissed the petition holding that the

petitioner in fact received about Rs.15,000/- + Rs.3,712/- towards full and final settlement of his claim and also executed a receipt in that regard which was marked under Ex.M9, which contains the signature of the petitioner.

Though no counter-affidavit is filed by the respondents, learned counsel for the respondents strenuously contended that in the light of Ex.W2 and Ex.M9, the plea of the petitioner falls to ground and the Labour court has rightly found that the petitioner is not entitled to get any further amounts and has rightly dismissed the petition filed in that regard.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side, perused the order dated 17.11.1997 made in M.P.No.294 of 1993 and other material made available on record.

At the outset, I am of the opinion that M.P.No.294 of 1993 filed by the petitioner under Section 33-C (2) of the Industrial Disputes Act, 1947 is speculative and imaginary in nature. The signature of the petitioner on Ex.M9 is not in dispute, whereunder the petitioner passed a receipt acknowledging receipt of certain sum towards full and final settlement of his terminal benefits. Further, he has also made a representation in this regard under Ex.W2. Therefore, the contention of the petitioner that he is entitled to get terminal benefits in a sum of Rs.1,53,619.75 Ps. is only imaginary and speculative in nature. Further, the very application under Section 33-C (2) of the Industrial disputes Act ought not to have been entertained by the Labour Court since the petitioner himself claims that he is an employee as per the provisions of A.P. Shops and Establishments Act, 1988. Nothing prevented the petitioner in working out his remedies as per the provisions of that Act. Even otherwise, the application filed under Section 33-C (2) of the Industrial Disputes Act is not maintainable before the Labour Court.

For all the above reasons, the Writ Petition is devoid of merits and is liable to be dismissed.

The Writ Petition is accordingly dismissed. No costs.

8th August, 2005.

Kgr

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

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WRIT PETITION No.10834 of 1998

Between:

Bakka Reddy, S/o. Hanmanth Reddy,
R/o. 3-2-605/A, Chappal Bazar,
Kachiguda, Hyderabad.

..... PETITIONER

AND

1 The Labour Court-I,
1st Floor, Chandravihar Buildings, M.J.Road, Nampally,
Hyderabad.
2 Sri Dwaraka Prasad,
Narsing Lodge, H.No. 5-1-549,
Jambagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records in respect of M.P.294/93 from the 1st Respondent and issue the appropriate writ or direction particularly one in the nature of WRIT OF CERTIORARI and quash the impugned order dated 17/11/1997 made in M.P.No.294/93 as arbitrary, unjust and in violation of Articles 14, 16 and 21 of the Constitution of India and consequently direct the 2nd Respondent to pay a sum of Rs.1,53,619.75 Ps. towards the service terminal benefits of the Petitioner.

Counsel for the Petitioner: Mr.V. NARASIMHA GOUD

Counsel for the Respondents: GP FOR LABOUR (for R1)

Mr. V.T.M. Prasad (for R2)

The Court made the following :